

MDR Tracking Number: M5-04-3736-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 6-30-04.

The IRO reviewed office visits, therapeutic exercises, therapeutic activities, range of motion testing, and muscle testing on 1-16-04 to 4-12-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO agreed with the previous determination that the office visits, therapeutic activities, and therapeutic exercises from 1-16-04 to 4-12-04 were not medically necessary. The IRO concluded that the muscle testing and range of motion testing were medically necessary from 1-16-04 to 4-12-04. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 7-28-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
2-18-04	99213	\$66.19	\$0.00	No EOB	$\$54.59 \times 125\% = \68.24	Rule 134.202 (b)	Since neither party submitted an EOB, service was reviewed per Rule 134.202. Requestor is seeking \$66.19 and the MAR is \$68.24. Per Rule 134.202(d), reimbursement shall be the lesser of the amount billed or the MAR. Recommend reimbursement of \$66.19.
2-23-	99211	\$26.94			$\$22.29 \times 125\% =$		Since neither party submitted an

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
04					\$27.86		EOB, service was reviewed per Rule 134.202. Requestor is seeking \$26.94 and the MAR is \$27.86. Per Rule 134.202(d), reimbursement shall be the lesser of the amount billed or the MAR. Recommend reimbursement of \$26.94.
2-18-04	97530 – 4 units	\$145.92	\$0.00	No EOB	$\$30.06 \times 125\% = \37.58 $\times 4 = \$150.30$	Rule 134.202 (b)	Since neither party submitted an EOB, service was reviewed per Rule 134.202. Requestor is seeking \$145.92 and the MAR is \$150.30. Per Rule 134.202(d), reimbursement shall be the lesser of the amount billed or the MAR. Recommend reimbursement of \$145.92.
TOTAL							The requestor is entitled to fee reimbursement of \$239.05.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service through in this dispute.

This Order is hereby issued this 7th day of October 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

August 19, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-3736-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: letter of medical necessity, office notes, physical therapy notes, FCE, EMG study, operative and radiology reports.

Information provided by Respondent: designated doctor exams.

Clinical History:

The claimant is a 36-year-old woman who was working when she was involved in a work-related event on _____. She experienced immediate pain in the neck/left shoulder. Symptoms radiated to the distal left upper extremity, and the claimant requested emergency medical attention.

The claimant presented to a chiropractor on 01/30/03 and was diagnosed with possible cervical discs myelopathy, lumbar disc myelopathy, left rotator cuff injury, and severe myospasm. The claimant initially presented for exam by an M.D. on 02/05/03 at the request of a different chiropractor, and was diagnosed with cervical sprain/strain and cervical muscle spasm. Cervical MR imaging on 02/11/03 revealed central and left central disc protrusion of 3 mm at C5/6 level. MR imaging of the left shoulder on 03/11/03 revealed no evidence of a rotator cuff tear and actually mild/moderate intratendinous degeneration over the supraspinatus testing.

The worker was referred to a surgeon on 01/08/03 and recommendations were made for invasive pain controls that included facet injections and epidural steroid injections at C5/6, and the possibility of performing an anterior discectomy/fusion was presented. ESF cervical series was performed on 04/24/03; and, on 04/30/04 a sympathetic blockage (stellate ganglionic block) was recommended. MR imaging of the lumbar spine on 05/21/03 was unremarkable. Surgical applications to correct the labral tear and partial thickness rotator cuff were performed on 06/25/03. The worker had a cervical discectomy and fusion at C5/6 on 10/10/03.

The claimant had a designated doctor examination on 12/18/03 in which the doctor states the claimant will have physical therapy for 3 weeks following her surgery and has an estimated date of maximum medical improvement (MMI) of 02/08/04. On 01/16/04, EMG over the epichordal was requested. Postoperative EMG of both upper extremities was recommended on 02/05/04, and the claimant was advised to start a physical therapy program. The claimant completed rehabilitation applications with central-balanced rehab from 01/16/04 through 04/12/04.

Disputed Services:

Office visits, therapeutic activities & exercises, ROM and muscle test from 01/16/04 through 04/12/04.

Decision:

The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that office visits coupled with physical therapy applications were not medically necessary from 01/16/04 through 02/18/04. In addition, office visits charges from 02/23/04 through 04/12/04 that are not coupled with physical therapy applications were not medically necessary. Therapeutic activities, therapeutic exercises, ROM testing and muscle testing were medically necessary from 01/16/04 through 04/12/04.

Rationale:

Denial of office charges both during physical therapy applications and following physical therapy applications is appropriate; the provider has not shown sufficient medical necessity to warrant these charges. The treating provider's application of rehabilitation services in the management of this post-surgical fusion patient is appropriately and medically sound.

It is likely that MR imaging does not pick up every minute pathology. The reviewer relied on the word of the orthopaedic surgeon who operated on the labral tear and partial thickness rotator cuff tear on 06/25/03. The reviewer relied on the word of the spine surgeon who performed a discectomy/fusion at C5/6 on 10/10/03.

The claimant failed conservative applications despite what is evident on MR imaging of the left shoulder on 03/11/03. Further, it is apparent that the claimant was not at any point appropriately classified within the strain/sprain therapeutic algorithm.

It is the opinion of the reviewer that failure of the carrier to allow appropriate transition of this claimant through physical therapy applications following cervical fusion surgery may have caused delays in appropriate care. These delays in care may have impeded the worker's return to greater functional status.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- Belamy, R. *Compensation Neurosis; Financial Reward for Illness as Placebo*. Clin Orthop 1997 Mar;(336):94-106.
- Mayer, T. G. et al. *Impact Of Functional Restoration After Anterior Cervical Fusion on Chronic Disability In Work-Related Neck Pain*. Spine J. 2002 July-Aug;2(4):267-73.
- Pokinghorn, D. S. et al. *Chiropractic Treatment Of Post-Surgical Neck Syndrome*

- *With Mechanical Force, Manually-Assisted, Short Lever Spinal Adjustment.* J Manipulative Physiol Ther. 2001 Nov-Dec;24(9):589-95.
- Randlov, A. et al. *Intensive Dynamic Training For Females With Chronic Neck/Shoulder Pain. A Randomized Controlled Trial.* Clin Rehabil. 1999 Jun;12(3):200-10.

Sincerely,